

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DANIEL HARPER,

Plaintiff,

v.

DE LA TORRE, et al.,

Defendants.

Case No. 1:25-cv-0001 JLT EPG (PC)

ORDER ADOPTING FINDINGS AND RECOMMENDATIONS, DENYING PLAINTIFF'S APPLICATIONS TO PROCEED *IN FORMA PAUPERIS*, AND DIRECTING PLAINTIFF TO PAY FILING FEE WITHIN 30 DAYS

(Docs. 2, 6, 9, 10)

Daniel Harper seeks to proceed *in forma pauperis* in this action, in which he alleges the defendants—all correctional officers at Corcoran State Prison—violated his civil rights while housed at the state prison. (Docs. 1, 2.) Plaintiff requests to proceed *in forma pauperis* in this action. The magistrate judge identified four actions that qualified as strikes under 28 U.S.C. § 1915(g). (Doc. 6 at 2.) In addition, the magistrate judge found Plaintiff's “allegations are insufficient to show that there is a real and imminent threat to Plaintiff's personal safety.” (*Id.* at 3.) In so finding, the magistrate judge observed that although Plaintiff alleged excessive force by the correctional officers, he identified only a single incident and there was “nothing to indicate that he was in imminent danger” when he filed the complaint, approximately seven months after the identified incident. (*Id.* at 3-4.) Therefore, the magistrate judge found the imminent danger exception to Section 1915 does not apply and recommended the motion to proceed *in forma pauperis* be denied. (*Id.* at 4.)

1 The Court served the Findings and Recommendations on Plaintiff and notified him that
2 any objections were due within 30 days. (Doc. 6 at 4.) The Court advised Plaintiff the “failure to
3 file any objections within the specified time may result in the waiver of certain rights on appeal.”
4 (*Id.* at 5, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) Although Plaintiff
5 did not file objections, he filed a second motion to proceed *in forma pauperis* (Doc. 9), a “motion
6 to show facts of inmate danger” (Doc. 10), and a notice of appeal (Doc. 11). The Ninth Circuit
7 dismissed Plaintiff’s appeal for lack of jurisdiction on February 27, 2025 (Doc. 16) and issued its
8 formal mandate on March 21, 2025 (Doc. 17).

9 The Court construes Plaintiff's motion to show inmate danger (Doc. 10) as objections to
10 Findings and Recommendations. However, Plaintiff does not address the specific findings of the
11 magistrate judge. (*See generally id.*) Rather, Plaintiff states that "every inmate in CSP Corcoran is
12 at [imminent] danger not only from the inmates but by the staff." (Doc. 10 at 1.) He contends that
13 he is "in some serious trouble with the[] cops and serious danger," and attaches evidence
14 including a rules violation report, housing placement notice, medical reports of an injury in Mar
15 2024, disciplinary proceedings, and an appeal. (*See id.* at 3-29.) However, these exhibits do not
16 show an ongoing serious physical injury, or that Plaintiff was in imminent danger of serious
17 physical injury at the time he filed the complaint in January 2025. Further, Plaintiff does not
18 dispute the magistrate judge's finding that the dismissals in the actions identified qualify as
19 strikes under Section 1915(g).

According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case. Having carefully reviewed the entire matter, the Court concludes the Findings and Recommendations are supported by the record and proper analysis. For the same reasons, the Court also denies Plaintiff's second motion to proceed *in forma pauperis* filed January 27, 2025. Thus, the Court **ORDERS**:

1 4. Within 30 days from the date of service of this order, Plaintiff **SHALL** pay in full
2 the \$405.00 to proceed with his action.

3 **Plaintiff is advised that failure to pay the required filing fee as ordered will result in**
4 **the dismissal of this action without prejudice.**

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6 IT IS SO ORDERED.
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8 Dated: March 25, 2025
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11 UNITED STATES DISTRICT JUDGE
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